

EXHIBIT 1



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2000-2001

October 17, 2003

Mark Stevenson, President
Send Technologies LLC
2904 Evangeline Street
Monroe, Louisiana 71201

Re: Union Parish School Board

Re: Billed Entity Number: 139313
471 Application Number: 163210
Funding Request Number(s): 405241
Your Correspondence Dated: April 1, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2000 Funding Commitment Adjustment for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 405241
Decision on Appeal: **Denied in full**
Explanation:

- You have stated on appeal that the appeal will provide clarifying information that corrects the erroneous assumptions made by the Schools and Libraries Division when it adjusted and rescinded funding that was granted to Send Technologies and Union Parish for Funding Year 2000. You state that there was no error during the initial review process regarding the Form 470 cited, but there was an error in a subsequent review due to insufficient information held by the SLD about Tom Snell and the competitive bidding process undertaken by Union Parish School Board. You state that listing Mr. Snell as the contact person on the Form 470 did in no way violate the intent of the bidding process and that the Union Parish Form 470 did not contain any service provider contact information. You state that

unlike all of the MasterMind type cases, Mr. Snell is an employee of the applicant (Union Parish School Board) and not an employee or representative of a service provider. You believe that the intent of the bidding process was fully observed and fulfilled in the case of Union Parish. You also state that Mr. Snell holds a fifteen percent minority ownership interest in Send Technologies and that he is not now, nor has he ever been an employee of Send, Mr. Snell is a passive investor in Send, and his ownership interest is substantially below that which could raise a question about a conflict of interest under any applicable law. You state that out of an abundance of caution, Mr. Snell disclosed his passive minority investment interest in Send to the appropriate local government officials after initial bids were received and Mr. Snell had realized that Send was bidding for Union Parish's services. You also state that the SLD's review of the previously approved and committed applications was prompted when the SLD learned of the Louisiana Audit that took place years after the competitive bidding process for Union Parish services. This matter was favorably resolved at the state level and the Louisiana Board of Ethics confirmed that there was no violation of the state and local procurement processes to ensure competition and this finding is significant. You close the appeal by stating that the critical public interest policies served by the Commission's competitive bidding rules are to ensure that schools and libraries seeking support through the E-rate program obtain the most cost-effective services available; through Union Parish's competitive bidding process, there was a fair and open competition for bidding of services; and at the end of the bidding process, Send was found to be the most cost-effective choice. You state that thus, the process Union Parish went through to choose Send explicitly met the public policy objectives that underlay the competitive bidding rules. Based on the facts stated, Send Technologies and Union Parish are therefore requesting that the SLD withdraw the issued Commitment Adjustment Letter and overturn the decision to rescind funding for this application.

- After a thorough review of the appeal, and upon review of the documentation (audit report from the State of Louisiana Legislative Auditor) which was obtained by the SLD, it was determined that Mr. Tom Snell, who is the authorized contact person listed on the cited Form 470 (Application Number: 482150000255298), also has a 15% ownership interest in the selected service provider (Send Technologies, LLC) as listed on the Form 471 application. According to the rules of the Schools and Libraries Program Support Mechanism (please see below), this is considered to be a conflict of interest (also see below) and is in violation of the competitive bidding guidelines, as the authorized contact person listed on the Form 470 cannot be associated in any way with a service provider as this violates the intent of the bidding process regarding fair and open competition. Based on this determination, the SLD Commitment Adjustment Letter that was issued on January 31, 2003, to the applicant and the related service provider informing them of the commitment adjustment that was made to this request (the rescinding of \$80,900.40 in full) was properly justified and was done according to the rules of the Schools and Libraries Support Mechanism.

- Rules of the Schools and Libraries Support Mechanism require the applicant to provide a fair and open competitive bidding process. Per the SLD website, "In order to be sure that a fair and open competition is achieved, any marketing discussions you hold with service providers must be neutral, so as not to taint the competitive bidding process. That is, you should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow them to unfairly compete in any way. A conflict of interest exists, for example, when an applicant's contact person, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected." Since the applicant's consultant/contact person in this case has been determined to have a 15% ownership interest in the selected service provider from whom the applicant is requesting services, all funding requests that are associated with the cited Form 470 must be denied. Consequently, the appeal is denied.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment, and preventing unfair competitive advantage.¹ A competitive bidding violation and conflict of interest exist when an applicant's contact person, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected.
- FCC rules require applicants to seek competitive bids and in selecting a service provider to carefully consider all bids.² FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements.³ In the May 23, 2000, *MasterMind Internet Services, Inc. (MasterMind)* appeals decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470 and MasterMind participated in the competitive bidding process initiated by the FCC Form 470.⁴ The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied.⁵ Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone and fax numbers, and email address.

¹ See, e.g., 48 C.F.R. § 9.505(a), (b).

² See 47 C.F.R. §§ 54.504(a), 54.511(a).

³ See 47 C.F.R. § 54.504(a), (b)(2)(vi).

⁴ See *In re MasterMind Internet Services, Inc.*, CC Docket 96-45, ¶ 9 (May 23, 2000).

⁵ See *id.*

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Tom Snell
Union Parish School Board
Marian Highway
Farmerville, LA 71241



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2000-2001

October 17, 2003

Mark Stevenson, President
Send Technologies LLC
2904 Evangeline Street
Monroe, Louisiana 71201

Re: Union Parish School Board

Re: Billed Entity Number: 139313
 471 Application Number: 160965
 Funding Request Number(s): 385823
 Your Correspondence Dated: April 1, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2000 Funding Commitment Adjustment for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 385823
Decision on Appeal: **Denied in full**
Explanation:

- You have stated on appeal that the appeal will provide clarifying information that corrects the erroneous assumptions made by the Schools and Libraries Division when it adjusted and rescinded funding that was granted to Send Technologies and Union Parish for Funding Year 2000. You state that there was no error during the initial review process regarding the Form 470 cited, but there was an error in a subsequent review due to insufficient information held by the SLD about Tom Snell and the competitive bidding process undertaken by Union Parish School Board. You state that by listing Mr. Snell, as the contact person on the Form 470 did in no way violate the intent of the bidding process and that the Union Parish

Form 470 did not contain any service provider contact information. Unlike all of the Master Mind type cases, Mr. Snell is an employee of the applicant (Union Parish School Board) and not an employee or representative of a service provider. You believe that the intent of the bidding process was fully observed and fulfilled in the case of Union Parish. You also state that Mr. Snell holds a fifteen percent minority ownership interest in Send Technologies and that he is not now, nor has ever been an employee of Send, Mr. Snell is a passive investor in Send, and his ownership interest is substantially below that which could raise a question about a conflict of interest under any applicable law. You state that out of an abundance of caution, Mr. Snell disclosed his passive minority investment interest in Send to the appropriate local government officials after initial bids were received and Mr. Snell had realized that Send was bidding for Union Parish's services. You also state that the SLD's review of the previously approved and committed applications was prompted when the SLD learned of the Louisiana Audit that took place years after the competitive bidding process for Union Parish services. This matter was favorably resolved at the state level and the Louisiana Board of Ethics confirmed that there was no violation of the state and local procurement processes to ensure competition and this finding is significant. You close the appeal by stating that the critical public interest policies served by the Commission's competitive bidding rules are to ensure that schools and libraries seeking support through the E-rate program obtain the most cost-effective services available, through Union Parish's competitive bidding process, there was a fair and open competition for bidding of services, and at the end of the bidding process, Send was found to be the most cost-effective choice. Thus, the process Union Parish went through to choose Send explicitly met the public policy objectives that underlay the competitive bidding rules. Based on the facts stated Send Technologies and Union Parish are therefore requesting that the SLD withdraw the issued Commitment Adjustment Letter's and overturn their decision to rescind funding for this application.

- After a thorough review of the appeal, upon review of the documentation (audit report from the State of Louisiana Legislative Auditor) which was obtained by the SLD. It was determined that Mr. Tom Snell who is the authorized contact person listed on the cited Form 470 (Application Number: 482150000255298), also has a 15% ownership interest in the selected service provider (Send Technologies, LLC) as listed on the Form 471 application. According to the rules of the Support Mechanism (please see below) this is considered to be a conflict of interest (also see below) and is in violation of the competitive bidding guidelines, as the authorized contact person listed on the Form 470 cannot be associated in any way with a service provider as this violates the intent of the bidding process regarding fair and open competition. Based on this determination, the SLD Commitment Adjustment Letter that was issued on January 31, 2003 to the applicant and the related service provider informing them of the commitment adjustment that was performed on this request (the rescinding of \$63,000.00 in full) was properly justified and was done according to the rules of the Support Mechanism.

- Rules of the Support Mechanism require the applicant to provide a fair and open competitive bidding process. Per the SLD website; "In order to be sure that a fair and open competition is achieved, any marketing discussions you hold with service providers must be neutral, so as not to taint the competitive bidding process. That is, you should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow them to unfairly compete in any way. A conflict of interest exists, for example, when an applicant's contact person, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected." Since the applicant's consultant/contact person in this case has been determined to have a 15% ownership interest in the selected service provider from whom the applicant is requesting services, all funding requests that are associated with the cited Form 470 must be denied. Consequently, the appeal is denied.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment, and preventing unfair competitive advantage.¹ A competitive bidding violation and conflict of interest exists when an applicant's contact, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected.
- FCC rules require applicants to seek competitive bids and in selecting a service provider to carefully consider all bids.² FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements.³ In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeals decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470 and MasterMind participated in the competitive bidding process initiated by the FCC Form 470.⁴ The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied.⁵ Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone and fax numbers, and email address.

¹ See, e.g., 48 C.F.R. § 9.505(a), (b).

² See 47 C.F.R. §§ 54.504(a), 54.511(a).

³ See 47 C.F.R. § 54.504(a), (b)(2)(vi).

⁴ See *In re MasterMind Internet Services, Inc.*, CC Docket 96-45, ¶ 9 (May 23, 2000).

⁵ See *id.*

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Tom Snell
Union Parish School Board
Marian Highway
Farmerville, LA 71241



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2000-2001

October 17, 2003

Mark Stevenson, President
Send Technologies LLC
2904 Evangeline Street
Monroe, Louisiana 71201

Re: Union Parish School Board

Re: Billed Entity Number: 139313
 471 Application Number: 163210
 Funding Request Number(s): 405241
 Your Correspondence Dated: April 1, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2000 Funding Commitment Adjustment for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 405241
Decision on Appeal: **Denied in full**
Explanation:

- You have stated on appeal that the appeal will provide clarifying information that corrects the erroneous assumptions made by the Schools and Libraries Division when it adjusted and rescinded funding that was granted to Send Technologies and Union Parish for Funding Year 2000. You state that there was no error during the initial review process regarding the Form 470 cited, but there was an error in a subsequent review due to insufficient information held by the SLD about Tom Snell and the competitive bidding process undertaken by Union Parish School Board. You state that listing Mr. Snell as the contact person on the Form 470 did in no way violate the intent of the bidding process and that the Union Parish Form 470 did not contain any service provider contact information. You state that

unlike all of the MasterMind type cases, Mr. Snell is an employee of the applicant (Union Parish School Board) and not an employee or representative of a service provider. You believe that the intent of the bidding process was fully observed and fulfilled in the case of Union Parish. You also state that Mr. Snell holds a fifteen percent minority ownership interest in Send Technologies and that he is not now, nor has he ever been an employee of Send, Mr. Snell is a passive investor in Send, and his ownership interest is substantially below that which could raise a question about a conflict of interest under any applicable law. You state that out of an abundance of caution, Mr. Snell disclosed his passive minority investment interest in Send to the appropriate local government officials after initial bids were received and Mr. Snell had realized that Send was bidding for Union Parish's services. You also state that the SLD's review of the previously approved and committed applications was prompted when the SLD learned of the Louisiana Audit that took place years after the competitive bidding process for Union Parish services. This matter was favorably resolved at the state level and the Louisiana Board of Ethics confirmed that there was no violation of the state and local procurement processes to ensure competition and this finding is significant. You close the appeal by stating that the critical public interest policies served by the Commission's competitive bidding rules are to ensure that schools and libraries seeking support through the E-rate program obtain the most cost-effective services available; through Union Parish's competitive bidding process, there was a fair and open competition for bidding of services; and at the end of the bidding process, Send was found to be the most cost-effective choice. You state that thus, the process Union Parish went through to choose Send explicitly met the public policy objectives that underlay the competitive bidding rules. Based on the facts stated, Send Technologies and Union Parish are therefore requesting that the SLD withdraw the issued Commitment Adjustment Letter and overturn the decision to rescind funding for this application.

- After a thorough review of the appeal, and upon review of the documentation (audit report from the State of Louisiana Legislative Auditor) which was obtained by the SLD, it was determined that Mr. Tom Snell, who is the authorized contact person listed on the cited Form 470 (Application Number: 482150000255298), also has a 15% ownership interest in the selected service provider (Send Technologies, LLC) as listed on the Form 471 application. According to the rules of the Schools and Libraries Program Support Mechanism (please see below), this is considered to be a conflict of interest (also see below) and is in violation of the competitive bidding guidelines, as the authorized contact person listed on the Form 470 cannot be associated in any way with a service provider as this violates the intent of the bidding process regarding fair and open competition. Based on this determination, the SLD Commitment Adjustment Letter that was issued on January 31, 2003, to the applicant and the related service provider informing them of the commitment adjustment that was made to this request (the rescinding of \$80,900.40 in full) was properly justified and was done according to the rules of the Schools and Libraries Support Mechanism.

- Rules of the Schools and Libraries Support Mechanism require the applicant to provide a fair and open competitive bidding process. Per the SLD website, "In order to be sure that a fair and open competition is achieved, any marketing discussions you hold with service providers must be neutral, so as not to taint the competitive bidding process. That is, you should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow them to unfairly compete in any way. A conflict of interest exists, for example, when an applicant's contact person, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected." Since the applicant's consultant/contact person in this case has been determined to have a 15% ownership interest in the selected service provider from whom the applicant is requesting services, all funding requests that are associated with the cited Form 470 must be denied. Consequently, the appeal is denied.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment, and preventing unfair competitive advantage.¹ A competitive bidding violation and conflict of interest exist when an applicant's contact person, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected.
- FCC rules require applicants to seek competitive bids and in selecting a service provider to carefully consider all bids.² FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements.³ In the May 23, 2000, *MasterMind Internet Services, Inc. (MasterMind)* appeals decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470 and MasterMind participated in the competitive bidding process initiated by the FCC Form 470.⁴ The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied.⁵ Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone and fax numbers, and email address.

¹ See, e.g., 48 C.F.R. § 9.505(a), (b).

² See 47 C.F.R. §§ 54.504(a), 54.511(a).

³ See 47 C.F.R. § 54.504(a), (b)(2)(vi).

⁴ See *In re MasterMind Internet Services, Inc.*, CC Docket 96-45, ¶ 9 (May 23, 2000).

⁵ See *id.*

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Tom Snell
Union Parish School Board
Marian Highway
Farmerville, LA 71241



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2000-2001

October 17, 2003

Mark Stevenson, President
Send Technologies LLC
2904 Evangeline Street
Monroe, Louisiana 71201

Re: Union Parish School Board

Re: Billed Entity Number: 139313
 471 Application Number: 160965
 Funding Request Number(s): 385823
 Your Correspondence Dated: April 1, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2000 Funding Commitment Adjustment for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 385823
Decision on Appeal: **Denied in full**
Explanation:

- You have stated on appeal that the appeal will provide clarifying information that corrects the erroneous assumptions made by the Schools and Libraries Division when it adjusted and rescinded funding that was granted to Send Technologies and Union Parish for Funding Year 2000. You state that there was no error during the initial review process regarding the Form 470 cited, but there was an error in a subsequent review due to insufficient information held by the SLD about Tom Snell and the competitive bidding process undertaken by Union Parish School Board. You state that by listing Mr. Snell, as the contact person on the Form 470 did in no way violate the intent of the bidding process and that the Union Parish

Form 470 did not contain any service provider contact information. Unlike all of the Master Mind type cases, Mr. Snell is an employee of the applicant (Union Parish School Board) and not an employee or representative of a service provider. You believe that the intent of the bidding process was fully observed and fulfilled in the case of Union Parish. You also state that Mr. Snell holds a fifteen percent minority ownership interest in Send Technologies and that he is not now, nor has ever been an employee of Send, Mr. Snell is a passive investor in Send, and his ownership interest is substantially below that which could raise a question about a conflict of interest under any applicable law. You state that out of an abundance of caution, Mr. Snell disclosed his passive minority investment interest in Send to the appropriate local government officials after initial bids were received and Mr. Snell had realized that Send was bidding for Union Parish's services. You also state that the SLD's review of the previously approved and committed applications was prompted when the SLD learned of the Louisiana Audit that took place years after the competitive bidding process for Union Parish services. This matter was favorably resolved at the state level and the Louisiana Board of Ethics confirmed that there was no violation of the state and local procurement processes to ensure competition and this finding is significant. You close the appeal by stating that the critical public interest policies served by the Commission's competitive bidding rules are to ensure that schools and libraries seeking support through the E-rate program obtain the most cost-effective services available, through Union Parish's competitive bidding process, there was a fair and open competition for bidding of services, and at the end of the bidding process, Send was found to be the most cost-effective choice. Thus, the process Union Parish went through to choose Send explicitly met the public policy objectives that underlay the competitive bidding rules. Based on the facts stated Send Technologies and Union Parish are therefore requesting that the SLD withdraw the issued Commitment Adjustment Letter's and overturn their decision to rescind funding for this application.

- After a thorough review of the appeal, upon review of the documentation (audit report from the State of Louisiana Legislative Auditor) which was obtained by the SLD. It was determined that Mr. Tom Snell who is the authorized contact person listed on the cited Form 470 (Application Number: 482150000255298), also has a 15% ownership interest in the selected service provider (Send Technologies, LLC) as listed on the Form 471 application. According to the rules of the Support Mechanism (please see below) this is considered to be a conflict of interest (also see below) and is in violation of the competitive bidding guidelines, as the authorized contact person listed on the Form 470 cannot be associated in any way with a service provider as this violates the intent of the bidding process regarding fair and open competition. Based on this determination, the SLD Commitment Adjustment Letter that was issued on January 31, 2003 to the applicant and the related service provider informing them of the commitment adjustment that was performed on this request (the rescinding of \$63,000.00 in full) was properly justified and was done according to the rules of the Support Mechanism.

- Rules of the Support Mechanism require the applicant to provide a fair and open competitive bidding process. Per the SLD website; "In order to be sure that a fair and open competition is achieved, any marketing discussions you hold with service providers must be neutral, so as not to taint the competitive bidding process. That is, you should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow them to unfairly compete in any way. A conflict of interest exists, for example, when an applicant's contact person, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected." Since the applicant's consultant/contact person in this case has been determined to have a 15% ownership interest in the selected service provider from whom the applicant is requesting services, all funding requests that are associated with the cited Form 470 must be denied. Consequently, the appeal is denied.
- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment, and preventing unfair competitive advantage.¹ A competitive bidding violation and conflict of interest exists when an applicant's contact, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected.
- FCC rules require applicants to seek competitive bids and in selecting a service provider to carefully consider all bids.² FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements.³ In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeals decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470 and MasterMind participated in the competitive bidding process initiated by the FCC Form 470.⁴ The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied.⁵ Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone and fax numbers, and email address.

¹ See, e.g., 48 C.F.R. § 9.505(a), (b).

² See 47 C.F.R. §§ 54.504(a), 54.511(a).

³ See 47 C.F.R. § 54.504(a), (b)(2)(vi).

⁴ See *In re MasterMind Internet Services, Inc.*, CC Docket 96-45, ¶ 9 (May 23, 2000).

⁵ See *id.*

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be **POSTMARKED** within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Tom Snell
Union Parish School Board
Marian Highway
Farmerville, LA 71241



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 1999-2000

October 17, 2003

CC: Tom Snell
Union Parish School Board
Marian Highway
Farmerville, LA 71241

Re: Billed Entity Number: 139313
471 Application Number: 119672
Funding Request Number(s): 171021
Your Correspondence Dated: April 1, 2003

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 1999 Funding Commitment Adjustment for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 171021
Decision on Appeal: **Denied in full**
Explanation:

- You have stated on appeal that the appeal will provide clarifying information that corrects the erroneous assumptions made by the Schools and Libraries Division when it adjusted and rescinded funding that was granted to Send Technologies and Union Parish for Funding Year 1999. You state that there was no error during the initial review process regarding the Form 470 cited, but there was an error in a subsequent review due to insufficient information held by the SLD about Tom Snell and the competitive bidding process undertaken by Union Parish School Board. You state that by listing Mr. Snell, as the contact person on the Form 470 did in no way violate the intent of the bidding process and that the Union Parish Form 470 did not contain any service provider contact information. Unlike all of the Master Mind type cases, Mr. Snell is an employee of the applicant (Union Parish School Board) and not an employee or representative of a service provider. You believe that the intent of the bidding process was fully observed and fulfilled in the case of Union Parish. You also state that Mr. Snell holds a fifteen percent

UNION PARISH SCHOOL
OCT 21 2003
RECEIVED

minority ownership interest in Send Technologies and that he is not now, nor has ever been an employee of Send, Mr. Snell is a passive investor in Send, and his ownership interest is substantially below that which could raise a question about a conflict of interest under any applicable law. You state that out of an abundance of caution, Mr. Snell disclosed his passive minority investment interest in Send to the appropriate local government officials after initial bids were received and Mr. Snell had realized that Send was bidding for Union Parish's services. You also state that the SLD's review of the previously approved and committed applications was prompted when the SLD learned of the Louisiana Audit that took place years after the competitive bidding process for Union Parish services. This matter was favorably resolved at the state level and the Louisiana Board of Ethics confirmed that there was no violation of the state and local procurement processes to ensure competition and this finding is significant. You close the appeal by stating that the critical public interest policies served by the Commission's competitive bidding rules are to ensure that schools and libraries seeking support through the E-rate program obtain the most cost-effective services available, through Union Parish's competitive bidding process, there was a fair and open competition for bidding of services, and at the end of the bidding process, Send was found to be the most cost-effective choice. Thus, the process Union Parish went through to choose Send explicitly met the public policy objectives that underlay the competitive bidding rules. Based on the facts stated Send Technologies and Union Parish are therefore requesting that the SLD withdraw the issued Commitment Adjustment Letter's and overturn their decision to rescind funding for this application.

- After a thorough review of the appeal, upon review of the documentation (audit report from the State of Louisiana Legislative Auditor) which was obtained by the SLD. It was determined that Mr. Tom Snell who is the authorized contact person listed on the cited Form 470 (Application Number: 716920000143248), also has a 15% ownership interest in the selected service provider (Send Technologies, LLC) as listed on the Form 471 application. According to the rules of the Support Mechanism (please see below) this is considered to be a conflict of interest (also see below) and is in violation of the competitive bidding guidelines, as the authorized contact person listed on the Form 470 cannot be associated in any way with a service provider as this violates the intent of the bidding process regarding fair and open competition. Based on this determination, the SLD Commitment Adjustment Letter that was issued on January 31, 2003 to the applicant and the related service provider informing them of the commitment adjustment that was performed on this request (the rescinding of \$23,124.00 in full) was properly justified and was done according to the rules of the Support Mechanism.
- Rules of the Support Mechanism require the applicant to provide a fair and open competitive bidding process. Per the SLD website; "In order to be sure that a fair and open competition is achieved, any marketing discussions you hold with service providers must be neutral, so as not to taint the competitive bidding process. That is, you should not have a relationship with a service provider prior

to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow them to unfairly compete in any way. A conflict of interest exists, for example, when an applicant's contact person, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected." Since the applicant's consultant/contact person in this case has been determined to have a 15% ownership interest in the selected service provider from whom the applicant is requesting services, all funding requests that are associated with the cited Form 470 must be denied. Consequently, the appeal is denied.

- Conflict of interest principles that apply in competitive bidding situations include preventing the existence of conflicting roles that could bias a contractor's judgment, and preventing unfair competitive advantage.¹ A competitive bidding violation and conflict of interest exists when an applicant's contact person, who is involved in determining the services sought by the applicant and who is involved in the selection of the applicant's service providers, is associated with a service provider that was selected.
- FCC rules require applicants to seek competitive bids and in selecting a service provider to carefully consider all bids.² FCC rules further require applicants to comply with all applicable state and local competitive bidding requirements.³ In the May 23, 2000 *MasterMind Internet Services, Inc. (MasterMind)* appeals decision, the FCC upheld SLD's decision to deny funding where a MasterMind employee was listed as the contact person on the FCC Form 470 and MasterMind participated in the competitive bidding process initiated by the FCC Form 470.⁴ The FCC reasoned that under those circumstances, the Forms 470 were defective and violated the Commission's competitive bidding requirements, and that in the absence of valid Forms 470, the funding requests were properly denied.⁵ Pursuant to FCC guidance, this principle applies to any service provider contact information on an FCC Form 470 including address, telephone and fax numbers, and email address.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference

¹ See, e.g., 48 C.F.R. § 9.505(a), (b).

² See 47 C.F.R. §§ 54.504(a), 54.511(a).

³ See 47 C.F.R. § 54.504(a), (b)(2)(vi).

⁴ See *In re MasterMind Internet Services, Inc.*, CC Docket 96-45, ¶ 9 (May 23, 2000).

⁵ See *id.*

Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company